REMARKS

Restriction Requirement

On page 2 of the October 20, 2006 Office Action, the Examiner issued the following restriction requirement:

> Restriction to one of the following inventions is required under 35 U.S.C. 121:
>
> I. Claims 1-7, drawn to a solid pharmaceutical dosage form comprising caffeine and a cephalagic, classified in class 514, subclass 263.310.
>
> II. Claims 8-13, drawn to a process of making a solid pharmaceutical dosage form comprising caffeine and a cephalagic, classified in class 514, subclass 263.310.

In issuing the restriction requirement, the Examiner asserts that

> "
>
> made by another and materially different process (MPEP § 806.05(f)). In the instant case, (1) the caffeine may be combined with any number of cephalagic compounds such as flurbiprofen, naproxen, oxaprozin, etodolac, indomethancin, ketorolac, nabumetane, mefenamic acid, or prioxicam; and (2) there are a number of methods that can be used to make a solid pharmaceutical dosage form comprising caffeine and a cephalagic.

(Office Action, page 2.)

The Examiner concluded that:

> Because these inventions are independent or distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper. It is noted that while the searches of Groups I and II may be overlapping, there is no reason to believe that the searches would be coextensive. In searching Group I, the examiner will be focusing on the patentability of a solid pharmaceutical dosage form comprising caffeine and a cephalagic and not a process of making a solid pharmaceutical dosage form

comprising caffeine and a cephalagic of Group II. Conversely, in searching Group II, the examiner will be focusing on the patentability of a process of making a solid pharmaceutical dosage form comprising caffeine and a cephalagic and not a solid pharmaceutical dosage form comprising caffeine and a cephalagic of Group I.

In accordance with restriction practice, the subject matter of claims 1-7 (Group I) is hereby elected for prosecution without traverse.

The Examiner further asserted that

> This application contains claims directed to the following patentably distinct species: (1) a single disclosed species of a cephalagic.

(Office Action, page 3.)

In view of this assertion, the Examiner requires the following:

> If either Group I or II is elected, the applicant is required under 35 U.S.C. 121 to elect (1) a single disclosed species of a cephalagic for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. For example, the applicant elects acetaminophen. Currently, claims 1-3, 5, 7-9, and 11-12 generic.

(Office Action, page 3.)

In accordance with election of species practice, acetaminophen is hereby elected for prosecution. Claims 1 and 3 are readable thereon.

Finally, the Examiner is invited to call the applicants' undersigned representative if any further action will expedite the prosecution of the application or if the Examiner has any suggestions or questions concerning the application or the present Response. In fact, if the claims of the application are not believed to be in full condition for allowance, for any reason, the applicants respectfully request the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP § 707.07(j) or in making constructive suggestions pursuant to MPEP § 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Accordingly, entry of the claims and allowance of the claims is respectfully requested. If the Examiner has any questions regarding this paper, please contact the undersigned.

Respectfully submitted,
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